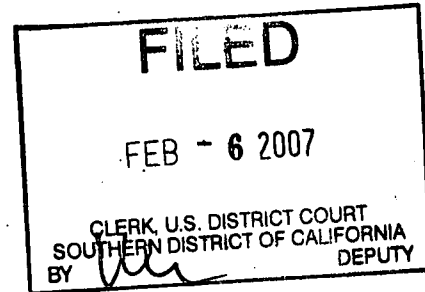


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Attorneys for Plaintiff  
UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

07 CR 255 WQH

UNITED STATES OF AMERICA,

Magistrate Case No. 07MJ0184

Plaintiff,

v.

**STIPULATION OF FACT AND JOINT  
MOTION FOR RELEASE OF  
MATERIAL WITNESS(ES) AND  
ORDER THEREON**

FIDEL CORTEZ-MUNOZ,

Defendant.

**(Pre-Indictment Fast-Track Program)**

**IT IS HEREBY STIPULATED AND AGREED** between the plaintiff, UNITED STATES OF AMERICA, by and through its counsel, Carol C. Lam, United States Attorney, and Carla J. Bressler, Assistant United States Attorney, and defendant FIDEL CORTEZ-MUNOZ, by and through and with the advice and consent of defense counsel, Ellis M. Johnston, III., Esq., Federal Defenders of San Diego, Inc., that:

1. Defendant agrees to execute this stipulation on or before the first preliminary hearing date and to participate in a full and complete inquiry by the Court into whether defendant knowingly, intelligently and voluntarily entered into it. Defendant agrees further to waive indictment and plead guilty to the pre-indictment information charging defendant with a non-mandatory minimum count of Bringing in Aliens Without Presentation and Aiding and Abetting, in violation of 8 U.S.C. § 1324(a)(2)(B)(iii) and 18 U.S.C. § 2.

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1           2.     Defendant acknowledges receipt of a plea agreement in this case and agrees to  
2 provide the signed, original plea agreement to the Government not later than five business days  
3 before the disposition date set by the Court.

4           3.     Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or  
5 before **February 21, 2007**.

6           4.     The material witness, Edith Elena-Acevedo, in this case:

7               a.     Is an alien with no lawful right to enter or remain in the United States;

8               b.     Entered or attempted to enter the United States illegally on or about  
9 January 22, 2007;

10              c.     Was found in a vehicle driven by defendant at the San Ysidro, California Port  
11 of Entry (POE) and that defendant knew or acted in reckless disregard of the fact that she was an  
12 alien with no lawful right to enter or remain in the United States;

13              d.     Was having others pay on her behalf an unknown amount of money to others  
14 to be brought into the United States illegally and/or transported illegally to her destination therein;  
15 and,

16              e.     May be released and remanded immediately to the Department of Homeland  
17 Security for return to her country of origin.

18           5.     After the material witnesses are ordered released by the Court pursuant to this  
19 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any  
20 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any  
21 proceeding, including, but not limited to, motion hearings, trial, sentencing, appeal or collateral  
22 attack, that:

23               a.     The stipulated facts set forth in paragraph 4 above shall be admitted as  
24 substantive evidence;

25               b.     The United States may elicit hearsay testimony from arresting agents  
26 regarding any statements made by the material witness(es) provided in discovery, and such  
27

1 testimony shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements  
2 against interest of (an) unavailable witness(es); and,

3 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),  
4 "testimonial" hearsay statements are not admissible against a defendant unless defendant confronted  
5 and cross-examined the witness(es) who made the "testimonial" hearsay statements, defendant  
6 waives the right to confront and cross-examine the material witness(es) in this case.

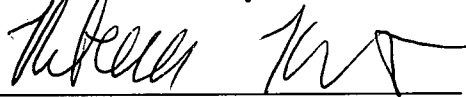
7 6. By signing this stipulation and joint motion, defendant certifies that defendant has  
8 read it (or that it has been read to defendant in defendant's native language). Defendant certifies  
9 further that defendant has discussed the terms of this stipulation and joint motion with defense  
10 counsel and fully understands its meaning and effect.

11 Based on the foregoing, the parties jointly move the stipulation into evidence and for the  
12 immediate release and remand of the above-named material witness(es) to the Department of  
13 Homeland Security for return to her country of origin.

14 It is STIPULATED AND AGREED this date.

15 Respectfully submitted,

16 CAROL C. LAM  
United States Attorney



17 CARLA J. BRESSLER  
Assistant United States Attorney



18 ELLIS M. JOHNSTON, III.  
Defense Counsel for Fidel Cortez-Munoz



19 FIDEL CORTEZ-MUNOZ  
Defendant



17 Dated: 2/6/07

18 Dated: 1/31/07

19 Dated: 1/31/07

**ORDER**

Upon joint application and motion of the parties, and for good cause shown,

**THE STIPULATION** is admitted into evidence, and,

**IT IS ORDERED** that the above-named material witness(es) be released and remanded forthwith to the Department of Homeland Security for return to her country of origin.

**SO ORDERED.**

Dated: 2/6/2007

  
United States Magistrate Judge

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, )

Plaintiff )

vs. )

Fidel Cortez-Munoz  
Defendant(s) )

CRIMINAL NO. 07 CR 255-WQH

ORDER

RELEASING MATERIAL WITNESS

Booking No.

On order of the United States District/Magistrate Judge,

Ruben B. Brooks

IT IS HEREBY ORDERED that the following named person heretofore  
committed to the custody of the United States Marshal as a material witness be  
released from custody: (Bond Posted / Case Disposed / Order of Court).

Edith Elena-Acevedo

DATED: 2/6/07

Ruben B. Brooks

UNITED STATES DISTRICT/MAGISTRATE JUDGE

RECEIVED

[Signature]  
DUSM

OR

W. SAMUEL HAMRICK, JR. Clerk

by [Signature]

Deputy Clerk